

**ASSEMBLY BILL**

**No. 741**

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**Introduced by Assembly Member Bill Berryhill**

February 26, 2009

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An act to amend Section 89514 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 741, as introduced, Bill Berryhill. Political Reform Act of 1974: campaign funds.

Existing law provides that campaign funds, including funds given for the purpose of promoting or defeating a ballot measure, are held in trust and may be used only for expenses associated with an election or associated with holding office. The act further specifies that the expenditure of campaign funds is within the lawful execution of the trust if the expenditure is reasonably related to a political, legislative, or governmental purpose. Under the act, an expenditure of campaign funds for attorney's fees and other costs in connection with administrative, civil, or criminal litigation is deemed to be directly related to a political, legislative, or governmental purpose if the litigation arises directly out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer.

This bill would provide that the expenditure of campaign funds held by a ballot measure committee for a candidate's or elected officer's attorney's fees and other costs in connection with administrative, civil, or criminal litigation is not directly related to a political, legislative, or governmental purpose and is not within the lawful execution of the trust in which those funds are held.

Existing law makes a willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties.

This bill would impose a state-mandated local program by creating additional crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 89514 of the Government Code is  
2 amended to read:  
3 89514. (a) Expenditures of campaign funds for attorney's fees  
4 and other costs in connection with administrative, civil, or criminal  
5 litigation are not directly related to a political, legislative, or  
6 governmental purpose except where the litigation is directly related  
7 to activities of a committee that are consistent with its primary  
8 objectives or arises directly out of a committee's activities or out  
9 of a candidate's or elected office's activities, duties, or status as a  
10 candidate or elected officer, including, but not limited to, an action  
11 to enjoin defamation, defense of an action to enjoin defamation,  
12 defense of an action brought for a violation of state or local  
13 campaign, disclosure, or election laws, and an action arising from  
14 an election contest or recount.  
15 (b) *Notwithstanding subdivision (a), the expenditure of campaign*  
16 *funds held by a ballot measure committee for a candidate's or*  
17 *elected officer's attorney's fees and other costs in connection with*  
18 *administrative, civil, or criminal litigation is not directly related*  
19 *to a political, legislative, or governmental purpose and is not*  
20 *within the lawful execution of the trust imposed by Section 89510*  
21 *of this code and Section 18680 of the Elections Code.*

1     SEC. 2. No reimbursement is required by this act pursuant to  
2     Section 6 of Article XIII B of the California Constitution because  
3     the only costs that may be incurred by a local agency or school  
4     district will be incurred because this act creates a new crime or  
5     infraction, eliminates a crime or infraction, or changes the penalty  
6     for a crime or infraction, within the meaning of Section 17556 of  
7     the Government Code, or changes the definition of a crime within  
8     the meaning of Section 6 of Article XIII B of the California  
9     Constitution.

10    SEC. 3. The Legislature finds and declares that this bill furthers  
11    the purposes of the Political Reform Act of 1974 within the  
12    meaning of subdivision (a) of Section 81012 of the Government  
13    Code.